

PTO/SB/21 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/729,552	
	Filing Date	December 5, 2003	
	First Named Inventor	Mark E. DEEM	
	Art Unit	Not Yet Assigned	
	Examiner Name	Not Yet Assigned	
Total Number of Pages in This Submission	12 + 1 ref.	Attorney Docket Number	514362000204

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	1. Form PTO-1449 + copy (8 pages)
<input checked="" type="checkbox"/> Information Disclosure Statement (3 pages)	<input type="checkbox"/> CD, Number of CD(s) _____	2. One (1) reference
<input type="checkbox"/> Certified Copy of Priority Document(s)		3. Return postcard
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		

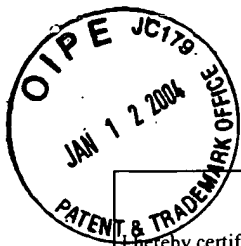
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	MORRISON & FOERSTER LLP (Customer No. 25226) Johney U. Han - 45,565
Signature	
Date	January 8, 2004

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: Jan. 8, 2004

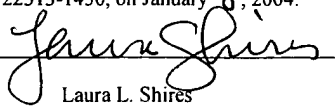
Signature: (Laura L. Shires)



PATENT
Docket No. 514362000204

CERTIFICATE OF MAILING BY "FIRST CLASS MAIL"

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 8, 2004.


Laura L. Shires

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Mark E. DEEM et al.

Serial No.: 10/729,552

Filing Date: December 5, 2003

For: OBESITY TREATMENT TOOLS AND
METHODS

Examiner: Not Yet Assigned

Group Art Unit: Not Yet Assigned

**INFORMATION DISCLOSURE
STATEMENT UNDER 37 C.F.R. § 1.97 & 1.98**

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.97 and § 1.98, Applicants submit for consideration in the above-identified application the documents listed on the attached Form PTO-1449. Copies of the documents numbered 1-61, 63-69 and 71-75 were previously submitted in an Information Disclosure Statement and/or Office Action, directed to the related application Serial Number 10/402,061, filed March 27, 2003, and, accordingly, copies are not included herewith. This protocol conforms with 37 C.F.R. § 1.98(d) and M.P.E.P. 609(A)(2). Also, pursuant to the USPTO notice dated July 11, 2003, waiving the requirement under 37 C.F.R. § 1.98 (a)(2)(i) to

provide copies of U.S. Patents and U.S. Published Applications, a copy of the reference numbered 62 is not submitted. A copy of the reference numbered 70 is submitted herewith. The Examiner is requested to make these documents of record in the application.

This Information Disclosure Statement is submitted:

- ☐ With the application; accordingly, no fee or separate requirements are required.
- ☐ Before the mailing of a first Office Action after the filing of a Request for Continued Examination under § 1.114. However, if applicable, a certification under 37 C.F.R. § 1.97(e)(1) has been provided.
- ☒ Within three months of the application filing date or before mailing of a first Office Action on the merits; accordingly, no fee or separate requirements are required. However, if applicable, a certification under 37 C.F.R. § 1.97(e)(1) has been provided.
- ☐ After receipt of a first Office Action on the merits but before mailing of a final Office Action or Notice of Allowance.
 - ☐ A fee is required. A check in the amount of ___ is enclosed.
 - ☐ A fee is required. Accordingly, a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.
 - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above; accordingly; no fee is believed to be due.
- ☐ After mailing of a final Office Action or Notice of Allowance, but before payment of the issue fee.
 - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a check in the amount of ___ is enclosed.
 - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a Fee Transmittal form (PTO/SB/17 is attached to this submission in duplicate.)

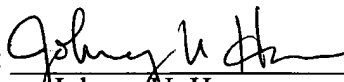
Applicants would appreciate the Examiner initialing and returning the Form PTO-1449, indicating that the information has been considered and made of record herein.

The information contained in this Information Disclosure Statement under 37 C.F.R. § 1.97 and § 1.98 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief (such as payment of a fee under 37 C.F.R. §1.17(p)) is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing **514362000204**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: January 8, 2004

Respectfully submitted,

By: 
Johny U. Han
Registration No. 45,565

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Telephone: (650) 813-5786
Facsimile: (650) 494-0792

Form PTO-1449

Docket Number 514362000204

Application Number 10/729,552

INFORMATION DISCLOSURE CITATION
IN AN APPLICATION

Applicant

Mark E. DEEM et al.

Filing Date December 5, 2003

Group Art Unit Not Yet Assigned

Mailing Date January 8, 2004

(Use several sheets if necessary)

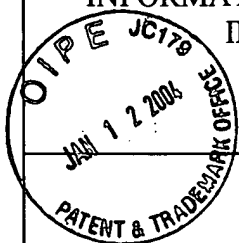
U.S. PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Name	Class	Subclass	Filing Date If Appropriate
	1.	09/22/2000	60/234,360	Schurr			
	2.	04/04/2002	2002/0040226	Laufer et al.			
	3.	06/13/2002	2002/0072761	Abrams et al.			
	4.	06/27/2002	2002/0078967	Sixto, Jr. et al.			
	5.	06/27/2002	2002/0082621	Schurr et al.			
	6.	12/19/2002	2002/0193816	Laufer et al.			
	7.	04/03/2003	2003/0065359	Weller et al.			
	8.	06/12/2003	2003/0109892	Deem et al.			
	9.	06/26/2003	2003/0120265	Deem et al.			
	10.	08/21/2003	2003/0158563	McClellan et al.			
	11.	10/15/1985	4,547,192	Brodsky et al.			
	12.	12/13/1988	4,790,294	Allred, III et al.			
	13.	06/29/1993	5,222,961	Nakao et al.			
	14.	07/12/1994	5,327,914	Shlain			
	15.	07/19/1994	5,330,503	Yoon			
	16.	09/13/1994	5,345,949	Shlain			
	17.	10/18/1994	5,355,897	Pietrafitta et al.			
	18.	01/17/1995	5,382,231	Shlain			
	19.	04/04/1995	5,403,326	Harrison et al.			
	20.	08/01/1995	5,437,291	Pasricha et al.			
	21.	06/18/1996	5,527,319	Green et al.			
	22.	08/27/1996	5,549,621	Bessler et al.			
	23.	11/05/1996	5,571,116	Bolanos et al.			
	24.	12/10/1996	5,582,616	Bolduc et al.			
	25.	12/17/1996	5,584,861	Swain et al.			
	26.	04/29/1997	5,624,381	Kieturakis			

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.



Form PTO-1449

Docket Number 514362000204

Application Number 10/729,552

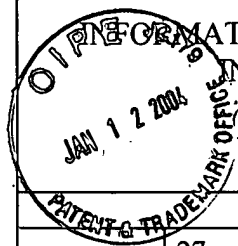
Applicant

Mark E. DEEM et al.

Filing Date December 5, 2003

Group Art Unit Not Yet Assigned

Mailing Date January 8, 2004

INFORMATION DISCLOSURE CITATION
IN AN APPLICATION

(Use several sheets if necessary)

27.	05/06/1997	5,626,588	Sauer et al.			
28.	07/29/1997	5,651,769	Waxman et al.			
29.	11/25/1997	5,690,656	Cope et al.			
30.	03/03/1998	5,722,990	Sugarbaker et al.			
31.	03/17/1998	5,728,178	Buffington et al.			
32.	05/12/1998	5,749,893	Vidal et al.			
33.	05/26/1998	5,755,730	Swain et al.			
34.	07/21/1998	5,782,844	Yoon et al.			
35.	08/11/1998	5,792,153	Swain et al.			
36.	09/22/1998	5,810,851	Yoon			
37.	09/22/1998	5,810,882	Bolduc et al.			
38.	10/20/1998	5,824,008	Bolduc et al.			
39.	10/27/1998	5,827,298	Hart et al.			
40.	02/09/1999	5,868,141	Ellias			
41.	03/09/1999	5,879,371	Gardiner et al.			
42.	03/30/1999	5,887,594	LoCicero, III			
43.	04/27/1999	5,897,534	Heim et al.			
44.	06/08/1999	5,910,105	Swain et al.			
45.	07/27/1999	5,928,264	Sugarbaker et al.			
46.	09/07/1999	5,947,983	Solar et al.			
47.	10/12/1999	5,964,772	Bolduc et al.			
48.	10/12/1999	5,964,782	Lafontaine et al.			
49.	10/26/1999	5,972,001	Yoon			
50.	11/02/1999	5,976,161	Kirsch et al.			
51.	03/28/2000	6,042,538	Puskas			
52.	05/30/2000	6,067,991	Forsell			
53.	09/05/2000	6,113,609	Adams			
54.	12/12/2000	6,159,146	El Gazayerli			
55.	01/30/2001	6,179,195	Adams et al.			

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.

Form PTO-1449

Docket Number 514362000204

Application Number 10/729,552

INFORMATION DISCLOSURE CITATION
IN AN APPLICATION

Applicant

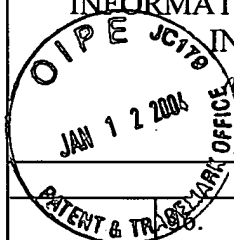
Mark E. DEEM et al.

Filing Date December 5, 2003

Group Art Unit Not Yet Assigned

Mailing Date January 8, 2004

(Use several sheets if necessary)



56.	03/06/2001	6,197,022	Baker			
57.	05/15/2001	6,231,561	Frazier et al.			
58.	12/11/2001	6,328,689	Gonzalez et al.			
59.	09/10/2002	6,447,533	Adams			
60.	12/17/2002	6,494,888	Laufer et al.			
61.	01/14/2003	6,506,196	Laufer			
62.	05/06/2003	6,558,400	Deem et al.			

FOREIGN PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Country	Class	Subclass	Translation YES NO	
	63.	03/19/1986	EP 0 174 843	Europe				
	64.	10/28/1999	WO 99/53827	WIPO				
	65.	12/28/2000	WO 00/78227	WIPO				
	66.	12/28/2000	WO 00/78229	WIPO				
	67.	11/15/2001	WO 01/85034	WIPO				
	68.	03/28/2002	WO 02/24080	WIPO				
	69.	05/23/2002	WO 02/39880	WIPO				
	70.	12/05/2002	WO 02/096327	WIPO				
	71.	01/30/2003	WO 03/007796	WIPO				

OTHER DOCUMENTS

(including author, title, Date, Pertinent Pages, Etc.)

Examiner Initials	Ref. No.	Title
	72.	Cummings, D.E. et al. (2002). "Plasma Ghrelin Levels After Diet-Induced Weight Loss or Gastric Bypass Surgery," <i>N. Engl. J. Med.</i> 346(21):1623-1630.
	73.	Davenport, H.W. (1971). <i>Physiology of the Digestive Tract</i> , Third Edition, Year Book Medical Publishers, Inc.: Chicago, IL, pp. 9-10 (Table of Contents Only.)
	74.	DeMeester, T.R. (2002). "Evolving Concepts of Reflux: The Ups and Downs of the LES," <i>Can. J. Gastroenterol</i> 16(5):327-331. DeMeester, T.R. (2002). "Evolving Concepts of Reflux: The Ups and Downs of the LES," <i>Can. J. Gastroenterol</i> 16(5):327-331.

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.

Form PTO-1449

Docket Number 514362000204

Application Number 10/729,552

INFORMATION DISCLOSURE CITATION
IN AN APPLICATION

(Use several sheets if necessary)

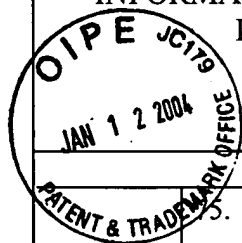
Applicant

Mark E. DEEM et al.

Filing Date December 5, 2003

Group Art Unit Not Yet Assigned

Mailing Date January 8, 2004



Villar, H.V. et al. (1981). "Mechanisms of Satiety and Gastric Emptying After Gastric Partitioning and Bypass," *Surgery* 90(2):229-236.

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.

Form PTO-1449

Docket Number 514362000204

Application Number 10/729,552

INFORMATION DISCLOSURE CITATION
IN AN APPLICATION

(Use several sheets if necessary)

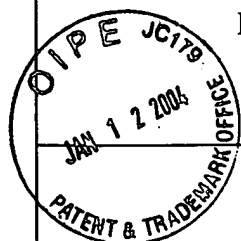
Applicant

Mark E. DEEM et al.

Filing Date December 5, 2003

Group Art Unit Not Yet Assigned

Mailing Date January 8, 2004



COPY

U.S. PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Name	Class	Subclass	Filing Date If Appropriate
	1.	09/22/2000	60/234,360	Schurr			
	2.	04/04/2002	2002/0040226	Laufer et al.			
	3.	06/13/2002	2002/0072761	Abrams et al.			
	4.	06/27/2002	2002/0078967	Sixto, Jr. et al.			
	5.	06/27/2002	2002/0082621	Schurr et al.			
	6.	12/19/2002	2002/0193816	Laufer et al.			
	7.	04/03/2003	2003/0065359	Weller et al.			
	8.	06/12/2003	2003/0109892	Deem et al.			
	9.	06/26/2003	2003/0120265	Deem et al.			
	10.	08/21/2003	2003/0158563	McClellan et al.			
	11.	10/15/1985	4,547,192	Brodsky et al.			
	12.	12/13/1988	4,790,294	Allred, III et al.			
	13.	06/29/1993	5,222,961	Nakao et al.			
	14.	07/12/1994	5,327,914	Shlain			
	15.	07/19/1994	5,330,503	Yoon			
	16.	09/13/1994	5,345,949	Shlain			
	17.	10/18/1994	5,355,897	Pietrafitta et al.			
	18.	01/17/1995	5,382,231	Shlain			
	19.	04/04/1995	5,403,326	Harrison et al.			
	20.	08/01/1995	5,437,291	Pasricha et al.			
	21.	06/18/1996	5,527,319	Green et al.			
	22.	08/27/1996	5,549,621	Bessler et al.			
	23.	11/05/1996	5,571,116	Bolanos et al.			
	24.	12/10/1996	5,582,616	Bolduc et al.			
	25.	12/17/1996	5,584,861	Swain et al.			
	26.	04/29/1997	5,624,381	Kieturakis			

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.

Form PTO-1449

Docket Number 514362000204

Application Number 10/729,552

INFORMATION DISCLOSURE CITATION IN AN APPLICATION

(Use several sheets if necessary)

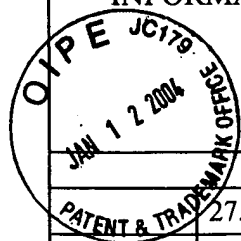
Applicant

Mark E. DEEM et al.

Filing Date December 5, 2003

Group Art Unit Not Yet Assigned

Mailing Date January 8, 2004



27.	05/06/1997	5,626,588	Sauer et al.			
28.	07/29/1997	5,651,769	Waxman et al.			
29.	11/25/1997	5,690,656	Cope et al.			
30.	03/03/1998	5,722,990	Sugarbaker et al.			
31.	03/17/1998	5,728,178	Buffington et al.			
32.	05/12/1998	5,749,893	Vidal et al.			
33.	05/26/1998	5,755,730	Swain et al.			
34.	07/21/1998	5,782,844	Yoon et al.			
35.	08/11/1998	5,792,153	Swain et al.			
36.	09/22/1998	5,810,851	Yoon			
37.	09/22/1998	5,810,882	Bolduc et al.			
38.	10/20/1998	5,824,008	Bolduc et al.			
39.	10/27/1998	5,827,298	Hart et al.			
40.	02/09/1999	5,868,141	Ellias			
41.	03/09/1999	5,879,371	Gardiner et al.			
42.	03/30/1999	5,887,594	LoCicero, III			
43.	04/27/1999	5,897,534	Heim et al.			
44.	06/08/1999	5,910,105	Swain et al.			
45.	07/27/1999	5,928,264	Sugarbaker et al.			
46.	09/07/1999	5,947,983	Solar et al.			
47.	10/12/1999	5,964,772	Bolduc et al.			
48.	10/12/1999	5,964,782	Lafontaine et al.			
49.	10/26/1999	5,972,001	Yoon			
50.	11/02/1999	5,976,161	Kirsch et al.			
51.	03/28/2000	6,042,538	Puskas			
52.	05/30/2000	6,067,991	Forsell			
53.	09/05/2000	6,113,609	Adams			
54.	12/12/2000	6,159,146	El Gazayerli			
55.	01/30/2001	6,179,195	Adams et al.			

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.

Form PTO-1449

Docket Number 514362000204

Application Number 10/729,552

INFORMATION DISCLOSURE CITATION IN AN APPLICATION

(Use several sheets if necessary)

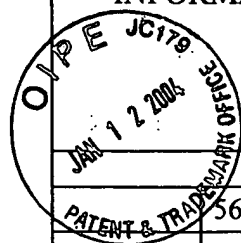
Applicant

Mark E. DEEM et al.

Filing Date December 5, 2003

Group Art Unit Not Yet Assigned

Mailing Date January 8, 2004



56.	03/06/2001	6,197,022	Baker			
57.	05/15/2001	6,231,561	Frazier et al.			
58.	12/11/2001	6,328,689	Gonzalez et al.			
59.	09/10/2002	6,447,533	Adams			
60.	12/17/2002	6,494,888	Laufer et al.			
61.	01/14/2003	6,506,196	Laufer			
62.	05/06/2003	6,558,400	Deem et al.			

FOREIGN PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Country	Class	Subclass	Translation YES NO	
	63.	03/19/1986	EP 0 174 843	Europe				
	64.	10/28/1999	WO 99/53827	WIPO				
	65.	12/28/2000	WO 00/78227	WIPO				
	66.	12/28/2000	WO 00/78229	WIPO				
	67.	11/15/2001	WO 01/85034	WIPO				
	68.	03/28/2002	WO 02/24080	WIPO				
	69.	05/23/2002	WO 02/39880	WIPO				
	70.	12/05/2002	WO 02/096327	WIPO				
	71.	01/30/2003	WO 03/007796	WIPO				

OTHER DOCUMENTS

(including author, title, Date, Pertinent Pages, Etc.)

Examiner Initials	Ref. No.	Title
	72.	Cummings, D.E. et al. (2002). "Plasma Ghrelin Levels After Diet-Induced Weight Loss or Gastric Bypass Surgery," <i>N. Engl. J. Med.</i> 346(21):1623-1630.
	73.	Davenport, H.W. (1971). <i>Physiology of the Digestive Tract</i> , Third Edition, Year Book Medical Publishers, Inc.: Chicago, IL, pp. 9-10 (Table of Contents Only.)
	74.	DeMeester, T.R. (2002). "Evolving Concepts of Reflux: The Ups and Downs of the LES," <i>Can. J. Gastroenterol</i> 16(5):327-331. DeMeester, T.R. (2002). "Evolving Concepts of Reflux: The Ups and Downs of the LES," <i>Can. J. Gastroenterol</i> 16(5):327-331.

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.

Form PTO-1449

Docket Number 514362000204

Application Number 10/729,552

INFORMATION DISCLOSURE CITATION
IN AN APPLICATION

(Use several sheets if necessary)

Applicant

Mark E. DEEM et al.

Filing Date December 5, 2003

Group Art Unit Not Yet Assigned

Mailing Date January 8, 2004

75.

Villar, H.V. et al. (1981). "Mechanisms of Satiety and Gastric Emptying After Gastric Partitioning and Bypass," *Surgery* 90(2):229-236.

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.